

MINUTES

**CITY OF WARR ACRES
REGULAR CITY COUNCIL MEETING
WEDNESDAY
JULY 5, 2006
7:00 P.M.**

1. The meeting was called to order at 7:00 p.m. Declaration of a quorum present was given. The Flag salute was lead by Chief Carter and the Invocation was given by John Tardibono.

ROLL CALL

PRESENT

Mayor Marietta Tardibono
Vice-Mayor Jeff Martinez
Councilman Jimmy Alexander
Councilman Walter Johnson
Councilman Mike Gossman
Councilman Rodney Nelson
Councilman Stan Street
Councilwoman Nancy Olson
Councilman Stewart Shapiro

ABSENT

STAFF PRESENT

Pam Ramirez, City Clerk
Bob Jernigan, City Attorney
Roger Patty, Police Chief
Rob Carter, Fire Chief
Mike Turman, City Inspector
Scott Barrett, City Engineer

2. Presentation of Badges to Firefighter John Wayne McAlister. Presentation of 5 year pin to Officer Kyle Hill, 10 year pin to Fire Sgt. Ben Chadd, and 15 year pins to Public Works Driver Ruben DeLoera, Custodian Jesus DeLoera and Asst. Court Clerk Jamie Jones.

Chief Carter and the Mayor presented John Wayne McAlister with his badges and the Mayor presented Officer Hill a 5 year pin, Fire Sgt. Chadd a 10 year pin, and Ruben DeLoera, and Jamie Jones 15 year pins. Jesus Deloera was unable to attend so he will be given his pin at a later date.

Item 3 was done after item 4.

3. Presentation of donation from Monroe Elementary to Officer Schatzer and Officer Lerry.

The Mayor made a presentation to Officer Schatzer and Officer Lerry. She told how the class from Monroe Elementary saved change to donate for a vest for the drug dog.

Item 4 was heard before item 3.

4. Questions and Comments from Warr Acres Residents.

Larry Conner who lives at Cedar Lake Condominiums stated that they had been hit by vandals and had requested to pay for the services of an Officer to live there and have his car there in hopes of deterring any more slashed tires. He feels the city needs to reconsider the decision to stop the take home vehicles.

Luther Lewis who also lives at Cedar Lake Condominiums stated that he has also been a victim of tires being slashed and also believe that police cars visible to the public is a deterrent to crime and thinks the city should allow the take home vehicles. He said that he came from a family of police and they all were allowed to take vehicles home. He asked if they are allowed to take them home when they live in the city if they were allowed to use them if they had to run to the store and he was told no.

The Mayor said that the citizens in Ward I have had to travel outside the city to vote and she has been working with the election board on finding another place for those persons to vote. She said that Cherokee Hills Baptist Church may be used starting in 2007.

The Mayor also announced that she wanted to brag on Inspector Mike Turman for just receiving his Engineering Certificate.

The Mayor said that she was disappointed that no one showed up for the Town Hall meeting held at the Community Center by Senators Brannon and Coffee.

5. CONSENT DOCKET: (individual items may be deleted from the consent docket for discussion and action under #6.

A. Approval of the minutes from the Regular Meetings of June 6, 2006. ****

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|----|---|--------------|
| B. | Approval of Expenditures – General Fund | \$ 38,779.47 |
| | CIP Fund | \$ 8,787.54 |
| | Sewer Line Maint. | \$ 9,563.54 |

C. Approval of Proposed Expenditures for June 2006. ****

D. Sales Tax History Report. ****

- E. Approve Supplemental Appropriation of Drug Seizure money to the Police Department in the amount of \$2,168.80.

Councilman Nelson asked to pull item B.

Motion by Nelson, second by Martinez to approve items A, C, D, and E. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, nay; Olson, yea; and Tardibono, yea.

Motion Passed.

6. Discussion and possible action on items removed from the consent docket.

Councilman Nelson asked about a claim for a flooded fire truck and Chief Carter explained that they were responding to a rescue of stranded citizens at 34th and Hammond and they drove too far into the water. Councilman Nelson asked if they were given a drug test and the answer was no. He also asked if there was a police report and again the answer was no, he said that he did turn in a report to the clerk to be sent to insurance. There was a question about the high cell phone bill in Sanitation and the clerk stated that it was due to the disconnect fee for canceling the service contract.

Councilman Johnson asked about the claim for Farrington Truck for repairs to a truck that ran out of gas. The Mayor stated that a reprimand had been given.

Motion by Olson, second by Martinez to approve item B. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

7. Receive reports from Staff: Police, Fire, City Clerk, City Inspector, Street, Sanitation, Sewer, City Engineer, and City Planner. ****

Street Supervisor Dickson asked what the council wanted done with the left over items that did not sell at the auction. They told him to make a list and bring it back to council and Attorney Jernigan could write a Resolution to dispose of the items. They also told Sanitation Supervisor Hayes to do the same thing. Mr. Dickson stated that he had several pieces of equipment that needed to be repaired and asked the council what he should do since there is not a mechanic. They told him to take them and have them worked on at local garages they were sure that the local repair shops would appreciate the business. He also stated that the Street Department was budgeted for 7 people but they only had 6 and wanted to know if he could hire another person. There was no response to his request.

Engineer Barrett said that he hoped to have the final numbers on Ann Arbor in two weeks. He said that Krapff-Reynolds was done with the work and had received the DVD's and tape and now he needed to get with Sewer Supervisor Seale and look at the video and figure out what needed to be done. He was asked

if they were able to get the video of the pipe by the Pines dam and he said that they were able to go part way from one end and then went to the other end and went part way but they did not get all of it. Councilman Nelson stated that there was still a problem with equipment being parked in parking lots at 63rd and MacArthur and they were destroying the parking lots. Mr. Barrett stated that he would make another call.

8. Reports from Committees.

Permit committee has an item on this agenda to raise permit fees.

Stormwater committee has not met but needs to this month so they can prepare a letter for DEQ that must be done by August.

Payscale committee is waiting to see what is going to happen.

9. Questions and comments from Council members.

Councilman Shapiro said that there needed to be more 25mph signs on MacArthur because they are too far apart, and he said that the police department was doing a great job in patrolling MacArthur. He also does not feel that the contractors will meet the completion date of December 23rd.

Councilman Alexander asked what was going on at Sierra Point Apartments. Inspector Turman stated that they are cleaning out the units and the burned out unit and they are down to about a dozen occupied units. He was asked if they would require any permits and he said that they would. Councilman Street asked if they were planning on reopening and Attorney Jernigan stated that they had gone into receivership and they were surprised that they were fixing it up and planning to reopen. Councilman Alexander stated that it needed major repairs.

Councilman Gossman asked if there was anything that could be done about commercial property that was run down and vacant. Attorney Jernigan said that he is working on revamping the total Ordinance to make it stronger and more enforceable. He said that when they adopted the Maintenance Code they took everything out except paint and roofing. Councilman Gossman stated that there is one employee that keeps cutting through the parking lot at 63rd and MacArthur and if the city is going to ticket others that cut through this person should also be ticketed.

Item 32 was heard before item 10.

10. Final Public Hearing and possible action for an Automobile Sales Lot at 5912 NW 36th Street as a Use Subject to Review in the C4 (General Business) District. Applicant: John Thephachanh/Weldon Hugh. (This item needs to be continued)

Inspector Turman stated that the Planning Commission had requested more information.

Motion by Martinez, second by Alexander to continue this item to the July 18th meeting. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Item 11 was heard after item 13.

The council took a 10 minute recess from 9:04 p.m. to 9:14 p.m.

11. Discussion and possible action on a contract with Crawford and Associates for accounting and consulting services. ****

Clerk Ramirez stated that this was the same as in years past a contract for accounting assistance and audit prep work.

Motion by Olson, second by Gossman to approve the contract. Poll vote: Alexander, yea; Johnson, nay; Nelson, nay; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed.

12. Discussion and possible action on investigating the Sanitation Department.
Johnson

Councilman Johnson stated that Charter provides for the council to investigate and he feels that records are very bad and almost non-existent and they need to make sure that records are kept because if ODOT comes in they better be able to provide maintenance records or the city is going to be in a lot of trouble. Councilwoman Olson stated that she thought that all the Public Works departments needed to be investigated, especially since there was one vehicle that had not been inspected in some time. Attorney Jernigan stated there are two ways for the council to proceed, either the council as a whole holds hearings and calls people in, or they can create a committee to do the investigation and report and make recommendations to the full council. Councilman Shapiro stated that there needs to be record keeping in all the departments and inventory of small and large items. Councilman Johnson stated the major responsibility is to have records for ODOT. They need to set up a system of maintenance record keeping. Sanitation Supervisor Hayes stated that a few months ago he drew up maintenance record sheets for oil changes and minor work done by his staff. He said that each driver also has a book that they do a check of their truck every morning before they leave the shop. Attorney Jernigan stated the council needed to set up the scope of the investigation. The adequacy of the equipment maintenance records is what Attorney Jernigan stated it sounded like what the council was wanting. Councilman Street asked why they were going to waste time investigating the past and why they could not just start now. Councilman Johnson stated that if ODOT comes out to look at records they better have them.

Motion by Street, second by Martinez to continue this item to the July 18th meeting to give Clerk Ramirez time to look for information on the garage computer. Poll vote: Alexander, nay; Johnson, nay; Nelson, nay; Gossman, yea; Martinez, yea; Street, yea; Shapiro, nay; Olson, yea; and Tardibono, yea.

Motion Passed.

Item 13 was heard after item 23 and before item 11.

13. Discussion and possible action on the continuous flushing of the water main at 47th and State that is deteriorating the streets. *Johnson*

Councilman Johnson stated that he had met Johnny Dickson and Attorney Jernigan at 47th and State last Friday morning to take a look at the situation and that Attorney Jernigan now has a better understanding of the situation. Attorney Jernigan stated that he was amazed that the citizens were putting up with the quality of the water. He said the street has been stained from the red water. He said that he had spoken with OKC and they have a project for January to replace lines and he is going to work with them to get the intersection replaced and made a part of the project. He said the street has been patched many times and is in bad shape and the curb is caving in. Unfortunately, he won't be able to speed the project up. Engineer Barrett stated that State Street water main is included in the project and once the line is replaced the red water will go away. Councilman Johnson stated that Warr Acres needed to be first in line and Attorney Jernigan needed to review the agreement that was signed years ago with the city of OKC. Tommy Pike stated that he had a letter from OKC and the project includes 44th and Sterling but not 47th and State.

Motion by Johnson, second by Martinez to continue this item to the July 18th meeting for a report from Mr. Jernigan. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

14. Discussion and possible action on an Ordinance amending 8.04.010 Designation, nuisances. *Jernigan* *****

B. Approval of emergency clause.

15. A. Discussion and possible action on an Ordinance amending 10.84.040 (B). *Jernigan* *****

B. Approval of emergency clause.

Attorney Jernigan asked for items 14 and 15 to be struck from the agenda and stated that he had been asked to revamp the entire Ordinance.

16. A. Discussion and possible action on an Ordinance changing the fees for certain permits. *Jernigan* ****

Inspector Turman stated that the permit committee reviewed the surrounding cities fees and Warr Acres fees were out of balance with the fees charged by other cities so they made a recommendation to raise the fees.

This Ordinance will be #1022.

Motion by Johnson, second by Martinez to approve Ordinance #1022. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

- B. Approval of emergency clause.

Motion by Olson, second by Alexander to approve the emergency clause. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

17. A. Discussion and possible action on an Ordinance amending 9.76.030 Curfew for minors. *Patty* ****

Chief Patty stated that this was requested by Judge Cassil to make it easier to read and set the same times for all ages. Councilman Nelson stated that 9.76.030 did not read correctly and asked for it to be amended. The change needs to strike “under seventeen (17) years of age (eighteen years or less)” and read “less than 18 years of age”.

Motion by Johnson, second by Martinez to approve the amendment. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

This Ordinance will be #1023.

Motion by Shapiro, second by Martinez to approve the amended Ordinance #1023. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

- B. Approval of emergency clause.

Motion by Shapiro, second by Martinez to approve the emergency clause. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

18. A. Discussion and possible action on an Ordinance amending 2.26.015 Truancy Prohibited. ****

Clerk Ramirez stated that Attorney Simms told her that this Ordinance was to make the city compliant with the State. Chief Patty stated that the city does not handle truancy that they take the kids back to the school or to the county truancy hall. Attorney Jernigan stated that since it is in the Code then it is better to be compliant with the state and he recommended approval. Councilman Nelson stated that it needed to be taken out of the Code.

Motion by Nelson, second by Street to direct the Attorney to draft an Ordinance to do away with the Truancy Ordinance all together. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

- B. Approval of emergency clause.

Moot.

19. Discussion, possible action and review of Ordinance #1005 to possibly amend the wording. *Martinez* ****

Councilman Martinez asked for this item to be pulled at this time.

20. Discussion and possible action on a Resolution amending the Employee Handbook concerning overtime pay. *Ramirez* ****

Clerk Ramirez stated that this Resolution changes the handbook to go along with the limited funding for overtime pay.

This Resolution will be #418.

Motion by Shapiro, second by Martinez to approve Resolution #418. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

21. Discussion and possible action on a Resolution amending the Employee Handbook concerning cashed in vacation pay. *Ramirez* ****

Clerk Ramirez stated that this Resolution was to help with being better able to budget for vacation being cashed in and to somewhat limit the amount that could be cashed in during a fiscal year.

This Resolution will be #419.

Motion by Street, second by Martinez to approve Resolution #419. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

22. Discussion and possible action concerning the payment of vacation time in the FY 2006-2007 and possible transfer of appropriations for such pay. *Ramirez* ****

The question was raised as to how long the city had paid for cashed in vacation time. Clerk Ramirez stated that it had been done for at least the last 15 years and she asked Councilwoman Olson if she knew how long. Councilwoman Olson stated that they had not always paid for it and that it started sometime in the 1980's. The council decided it was time to do away with the option all together.

Motion by Shapiro, second by Martinez to direct the Attorney to draw up a Resolution to stop all vacation pay for cashed in vacation time. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Item 23 was heard before item 11.

23. Discussion and possible action on hiring a Warrant Officer and possibly lifting the hiring freeze to hire one. *Martinez*

Jim Wingert stated that he was the Marshal for the City of the Village and told about his job duties and how much he has collected for the city since 1999. He said that he works 29 hours a week and is part-time for the Municipal Clerks department. He said that he serves warrants, tracks people down, transfers prisoners to and from the county jail, places holds and releases on prisoners at the jail and in prison, and also works as the bailiff and security for the court. He said that in 6 ½ years he has collected \$385,000 and after expenses made the city \$315,000. He said that the City of the Village is about the same size as Warr Acres. He said that he sends out letters and about 15% respond to the letters, another 40% can't be found and the rest are tracked down and come to court or go to the county jail. Councilman Street asked Mr. Wingert how many hours he would be able to put in for Warr Acres if he was already working 29 hours a week for the Village. He stated that he would figure that out. He said that at the Village he is paid about \$16,500 a year and there is a job description for his position. Councilwoman Olson asked if the Police department was still working warrants and Chief Patty said that when they have a chance they do. He told the

council that the charge for failure to appear in the Village is 3x's what Warr Acres fine is. Councilman Street asked what it would take for the city to hire a Warrant Officer. Attorney Jernigan stated that he would like to take a look at the job description and thinks that the Ordinance designates the Chief as the city Marshal so would need to take a look at the Ordinance also. Councilman Martinez stated that Judge Cassil and Attorney Simms had told him he should speak with Judge Manchester. He said that he would like for the city to try it for 6 months and see what kind of money they could generate. The Mayor asked if they would have to advertise and stated that this is not a funded position. Councilman Alexander asked if they were talking about creating a new job. Councilman Martinez stated that yes it would be. Attorney Jernigan stated that he would look into this and get back with the council.

The council took a 10 minute recess after item 22 from 10:17 p.m. to 10:27 p.m.

Item 24 was heard after item 22.

24. Discussion and possible action to clarify the hiring policy pertaining to the hiring freeze. *Martinez*

Councilman Martinez stated that there needs to be some clarification on whether we are lifting the band on hiring or filling positions or what have you. He stated he thinks that the council needs to get it cleared. Attorney Jernigan stated he thinks the only question regards the replacements, he stated they had addressed all the other issues and Councilman Nelson stated that it's all been addressed but wants it reiterated. Attorney Jernigan stated he does not find it in there and when you say we need to clarify, if that's what you want me to do then he will draft something that specifically cover replacements. He also stated that it will apply to positions that you have already funded. Councilman Martinez agreed with uh huh. Mayor Tardibono stated if it's already funded and in the budget then why do we need to... Councilman Nelson stated to give the council... he stated since we are on such a tight budget and the money is not here, it gives us the opportunity to look at every single thing to decide whether we need to save the money, for a future date or whether we use it now. That's why the council wants it. Mayor Tardibono stated but it's already budgeted for. Attorney Jernigan stated you can change the budget but he will be glad to a.... Mayor Tardibono asked if the we had a direction and Attorney Jernigan stated yes, what you want to do is include replacement positions. Councilman Nelson stated we did this once before, it came up once before the hiring freeze was not adequate the verbiage in it was not adequate, we had it rewritten, it came back to us and then... Attorney Jernigan stated the only thing they did that time, Mr. Nelson was address the issue with respect to the seasonal and temporary employees that's what we were going after. Mayor agreeing, that's right. Attorney Jernigan also stated up to that point at that time everybody had come in as a practical matter and they had advised you they were going to fill a position but that was about it. Councilman Nelson stated you had advised this council that that included every new hire in this City. He also stated that Mr. Wehba was the one that brought it up and asked that it be clarified

the last time. Attorney Jernigan, stated it does include the new hires but it does not address the replacement issue. Mayor Tardibono stated especially when they are budgeted for. Attorney Jernigan also stated because when you are budgeted. The way I understand the process is the Charter gives the Mayor the power to hire and fire and you all (the council) have the power to budget those positions, if you don't want those positions then they shouldn't be budgeted. He also stated that he thinks you, there is a possibility that has been expressed to me that what you may be doing is treading on the authority of the Administration to hire and fire there is authorized by the Charter and so I have some questions on that. As you know it is broken down you guys have the Legislative the budgetary powers to do (was being interrupted, asked to finish) and then the Mayor has the Administrative side which includes the hiring and firing as set out in the Charter and what I think you may be doing is you may be encroaching on that administrative powers the Mayor has. He also stated he could not give a definitive answer on that but I see that is the encroachment you have those listed out of what the councils has and what the Mayor has and the Mayor has the power to hire and fire, you have the power to say you can't hire because there is not a position for that. Councilman Street stated that we are just talking about a hiring freeze, just a freeze and I know I understand the replacement thing I understand all that, but when a blanket statement, hiring freeze, it just a hiring freeze, done. Mayor Tardibono stated that's new positions that are not budgeted for. Councilman Martinez stated that's exactly why he wanted to bring this up. He also stated he did not think that's what this council thought that we signed off on last time (somewhat inaudible because of other person speaking.) Councilman Nelson (inaudible at first because someone else talking) we did it nicely, we tried to be nice about it, we don't want anybody hired new, Mayor, we don't want them replaced, we don't, we tried to be nice, do you want us to amend the budget and take money out of the budget and move it somewhere else, do you want us to be ugly about it. Councilman Street stated this council is ready to do that if that's what you want to do. Mayor Tardibono stated gentleman its up to you, I am just following the ordinance. Councilman Nelson stated we are just asking you to think of the policy. Attorney Jernigan stated he thinks it would be appropriate for you to withdraw the appropriations for those positions that are not filled. Councilman Nelson stated Pam from now on every time a person quits, is fired, or leaves for any reason, on the next Council meeting I want it to do away, I want a an item to do away with the money that was funded for their position and I want it every single time for every single person, now is that clear enough. I can't believe we have to do this to keep you from doing it, that is, I just can't believe it. Councilman Gossman stated he had a question. Mayor asked if he needed to that as a motion and Attorney Jernigan stated yes. Councilman Gossman stated he has a question on that though is if we do that well then what if our meeting is not for a week, in the mean time the Mayor decides she wants to replace that person. Jernigan stated you can't do it. Councilman Martinez also stated can't do it because of hiring freeze. Attorney Jernigan stated it's not a hiring freeze. Councilman Gossman stated no its not it's a replacement. Councilman Street stated okay but if what Rodney's says, we put that into a motion and it's done, then she can't do anything. Attorney Jernigan answered that's right. Councilman Nelson stated its like this, Mayor stated let me ask a question Councilman Nelson stated he wanted to finish what he was saying, if you hire somebody in between the time somebody

quits and the time this Council meets when the Council does meet, we will take away the money then. Okay and you will have to answer to that person. That's not the... (inaudible from all the talking). Mayor Tardibono stated she has a questions gentlemen, what is it that causes you to not trust me with City funds, that is within my scope as Mayor if its already budgeted that means you approved it when we did the budget, so why do you not trust me with that. Councilman Nelson stated I don't understand why you are asking that. Mayor stated it's obvious because you want to take that power away from me. Councilman Nelson stated because you want to buy a house that someone paid half what their offering to and you want to put a little water garden in and we just went over the budget and said we isn't got any money your not good at it. Is that clear. Mayor Tardibono stated did it come before the council, did I bring it before the Council because that was not something... Councilman Nelson stated your question was why don't we trust you. Mayor stated because that was not something within my scope I had to bring it before the Council. If it's something within my scope that's a different story and if you have budgeted for it already then it's the money is there. Attorney Jernigan stated I think you have a motion, City Clerk Ramirez stated she's sorry I did not get a second, Councilman Nelson asked motion for what? Attorney Jernigan stated you got a motion to a. City Clerk Ramirez stated every time someone leaves. ..Councilman Nelson stated no I am asking you to put that on every agenda, every time it comes, every time someone's, put it on the agenda. City Clerk stated he said it needed to be in a motion. Councilman Nelson stated I can't put things on the agenda. Attorney Jernigan stated no you can, I'm asking for putting into a form of a motion right now. That all positions when they are vacated the a appropriation terminates. Councilman Nelson stated no, I want it put as an agenda item, so the Council can decide whether it terminates or not. The Council wants to do it I think somebody else wants.... (inaudible to many people talking at one time) Councilman Street he says it right then, then we can reopen it and that way it stops her from just whatever she does (inaudible to many people talking) Councilman Nelson stated if you want that make the motion. Councilman Street stated that's what he wants, he wants that to be a motion there, that way it stops it right there dead in its tracks. Are you okay with that Rodney? Councilman Nelson stated he would second that. Councilman Street stated that's what he wants. Attorney Jernigan stated the motion, as he understands it, is that all positions, as they become vacant, that are, for which appropriations are made that that appropriations will cease. Councilman Street asked and that will be rebudgeted for, review it. Councilwomen Olson asked is this going to be in a form of an ordinance? So it's not just going to affect this Mayor but going to affect the next mayor. Attorney Jernigan stated more than likely he will wind up putting it in ordinance form. Yeah. Mayor Tardibono asked now if that is against our Charter how can they make a motion to do that? Attorney Jernigan stated it may not be a valid motion the only thing I am saying is I will prepare it. Councilman Nelson stated that this Council does have the right to a appropriate money by Charter and this is the way we would like to appropriate it. Unfortunately. City Clerk Ramirez asked who motioned and seconded, she reiterated that Councilman Nelson seconded Councilman Street. Councilman Nelson stated yes, he seconded Councilman Street. City Clerk Ramirez stated okay as as all positions as they become vacant the appropriations ceases for that position. Mayor Tardibono stated no that's not what the motion.

Councilman Nelson stated I believe that's what I said and City Clerk Ramirez stated that's what she is thinking, the day somebody quits I need to figure out how much was left to pay that person through rest of the year and then bring it before the Council for the next meeting to unappropriate that money. Attorney Jernigan stated it is already unappropriated. Councilman Martinez stated it defunds immediately. Attorney Jernigan also stated it defunds immediately. City Clerk Ramirez stated you have to make amendments to your budget. Attorney Jernigan stated if we are going unappropriate funds at that point and time. Councilman Shapiro asked where would we put the funds? City Clerk Ramirez stated she had no clue. Councilman Street stated we could put them into general fund for the time being. Councilman Shapiro stated he agreed with what the motion is except that he thinks we are just setting up a protocol that is going to put an awful burden on any Mayor of the City, he is thinking that, his feeling that we are taking a very harsh action, by his own experience, dealing with large numbers of personnel and various budgets through his professional career, it always was a distinction between a hiring freeze and what it really meant. The traditional thing with a hiring freeze is that, budgeted positions could be replaced routinely, it was always into the new hiring policy and the reason for that is that depending on a Mayor and a Council treading on a very dangerous thing about finding some way to decrease the size of Warr Acres Government in operation and services for the question that I see in on that is that I would prefer a more amicable type of a situation rather than putting this into an ordinance and changing this because I don't really feel that the Council would have to be involved with every hiring position. I fully appreciate what we are talking about but I also am concerned about the stability of Warr Acres Government and Services and a Council could get eventually out of hand on doing this. I get concerned about this. Councilman Nelson stated he absolutely, ya know, he understand exactly what Councilman Shapiro is saying, we have tried three (3) times, we have tried three (3) times. We passed the first one, then we said Mr. Jernigan we need a better one, so that everybody understands that didn't work, I just made mention that we bring it up what had happened. What if I just do it myself before the next meeting, so this is the only way, we have no, we have tried the amicable solution, it is not working, he doesn't know why but it is not working. We have tried through policy. Mayor Tardibono stated its not working because you are cutting the services to the City to the residents, to the citizens. Every time you unfund a position that has already been approved in the budget, you are cutting the services to the citizens and that's what I stand for. Councilman Nelson stated that was her opinion. Councilman Street stated Mayor that's just a political statement because there is...

Councilman Nelson stated that there is not a person on this council.. (inaudible from people talking) Mayor Tardibono stated Stan I beg to differ with you that is not a political statement I have the heart of the citizens and that's what I am here for to serve the citizens. Councilman Street stated yes it is and no you have stated before in your office that you are here for the underdog and here for the employees that are being the underdog. That's not what you're here for. Mayor Tardibono stated I am here to serve the citizens and the way the government is set up. Councilman Street stated again your statement was before that you were here for the underdog of the employees and your not here for that you're here to serve the citizens. Mayor Tardibono stated if I said that to you personally that does not mean that I won't stand for the citizens, I'm not going to a. Councilman Street

stated then let's stand for the citizens check book, let's balance the check book, let's keep.... Mayor Tardibono stated the money has already been there and it's been approved Councilman Shapiro stated he would like to call a five (5) minute recess. Mayor Tardibono said thank you. Recess was taken.

Mayor Tardibono asked if there was a motion on the floor and also stated we came back from recess at 10:27pm. What's the motion? City Clerk Ramirez stated she has Councilman Street and Councilman Nelson all positions as they become vacant all the appropriations will cease. Councilman Street stated he would like to amend that to run out at the end of the fiscal year. Councilman Nelson stated he would second that also. Discussion going on between Councilmen on how to say "fiscal year" not "physical year" Mayor Tardibono reiterated 2006-2007. Councilman Gossman explained to the City clerk on how she took out for the CIP for just the one and then it goes back, okay. City Clerk Ramirez said ok and asked if he seconded the amendment and Councilman Nelson answered yes.

A motion was made but concerns about the motion were brought up on what they were voting for, either the original motion or the amendment discussion is down below.

Councilman Shapiro asked if that was a vote on the amendment and Councilman Martinez stated no we voted on what he. .. Councilman Shapiro stated no, no, no, he he said, he introduced an amendment to make it for the fiscal year that's what we voted on not the motion not the original motion. Mayor Tardibono stated yeah, your right. Attorney Jernigan stated by procedure I think he is right I think his intention was to vote for that for the amendment as apposed to the resolution itself. Councilman Shapiro stated that's right, that we voted on the amendment to the a original motion. Attorney Jernigan stated to add the limitation for the period of the fiscal year, balance of the fiscal year. Councilman Shapiro was in agreement. Attorney Jernigan also stated and if that is approved then a.... Councilman Martinez stated then he just amended his motion on the floor is all he did. Attorney Jernigan stated I think that, I think what he's asking for a revote on the thing because that was not his understanding. Councilman Shapiro stated that is exactly right and Councilman Nelson stated would you remake your motion in its entirety, please. Councilman Street stated in some of your wording you will have to help me out with that, to cease all funding. Attorney Jernigan stated the only thing I suggested was that the Council has the authority to budget items and what they can do to keep an a position from being refilled is that upon an occurrence of a vacancy of any position within the City, that the appropriations made for that position will automatically cease and that this will be in effect for the balance of the fiscal year. Councilman Street said yes, that's his motion and councilman Nelson said then he will second it. Attorney Jernigan stated then Mayor everybody understands that they are voting on this motion and not necessarily the amendment. Councilman Shapiro said okay. City Clerk Ramirez asked about the last vote we did and Mayor stated it was invalid. Attorney Jernigan stated basically its being redacted, he was, it was not fully understood. Councilman Gossman stated he had a question instead of saying you just defund can you not, is there not way you can put it on hold until the next council meeting

where we can look at it and see if the position is viable or is it something we can do without for a few months. Attorney Jernigan stated you can do it any way you want to do it but his recommendation is if your going to do it then do it that way and then if you want to come back in with a refunding then you can. Councilman Gossman stated oh okay. Councilman Street stated then we can refund it anytime, correct? Councilman Martinez stated that's right we can appropriate money at any time. Councilman Street stated oh okay that's good. Attorney Jernigan meanwhile that will also be vacant. Councilman Street but if we know then that position is coming open then we can make appropriate actions at that time and open it back up correct. Attorney Jernigan stated yes. Councilman Street said ok good.

Motion by Street, second by Nelson to cease appropriation for any position as soon as it becomes vacant for FY 2006-2007. Poll vote: Alexander, nay; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, nay; Olson, nay; and Tardibono, nay.

Motion Passed.

25. Discussion, possible action and review of the city's ride along policy. *Martinez*

Chief Patty said that the city's policy and waiver were the same as OMAG, but the police keep the information for 2 ½ years and persons are allowed to ride one time a month for 8 hours. Councilman Martinez stated that they still needed to look at family riding in the cars. Chief Patty stated that he had already stopped that. Councilman Martinez asked what would happen if they did it anyway, Chief Patty stated there would be progressive discipline. Councilman Johnson said that even if an adult signs for a minor to ride it will not stand up in court. Chief Patty said that they do not have scouts anymore and there is a policy that states no pursuits with any ride alongs. He said that the only ones that have been exempt from the waiver were the Mayor and Council but from now on they too will have to sign the waiver. Councilman Johnson said that minor's riding gives him real heart burn. Chief Patty said that he would put a 19 year old age limit. Councilman Martinez said that he would like to get a copy of the memo on no family members in the cars. Chief Carter said that they have ride alongs from the schools through mentoring programs and the schools provide insurance policies. If they are responding to a fire the student rides with him in his car not code three.

Motion by Johnson, second by Shapiro to amend the city's ride along policy to eliminate minors under the age of 18. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

26. Discussion, possible action and review of the policy on the use of Police cars by off duty Officer while working security. *Martinez*

Councilman Martinez stated that he had received the memo from Chief Patty stating that he had already stopped the use of the cars as of June 26th. The Mayor said that she did not understand if they were allowing the officers to take the vehicles home if they lived in the city why they could not use them for security jobs in the city and she wanted to know what the difference was. She said that they have responded to calls while at their side jobs before. Councilman Johnson said it was a liability issue. Chief Patty stated that they do respond to calls while working their side jobs.

27. Discussion and possible action on changing the way multi-family units are charged for trash service. *Nelson* ****

Councilman Nelson asked for the item to be continued to give him more time to work on an idea for consistency and make the city some money. He said that right now there are different size dumpsters at complexes and they are all charged differently. He would like to make them all consistent.

Motion by Nelson, second by Martinez to continue this item to the July 18th meeting to give Councilman Nelson more time. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

28. Discussion and possible action on fixing the garage fueling system. *Martinez*

Councilman Martinez said he was still working on getting prices and trying to get the best deal and asked for this item to be continued to the next meeting.

Motion by Martinez, second by Street to continue this item to the July 18th meeting. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

29. Discussion and action on merit increases or 2% bonus in lieu of a merit for July for R. DeLorea, 2%; J. DeLorea, 2%; J. Jones; P. Shelton; J. Robertson, 2%; J. Kindle; W. Robertson; J. Dickson as funded in the FY 2006-2007 budget.

Councilman Martinez asked why some had 2% by them. Clerk Ramirez stated that those were the employees that were topped out. He asked if this was the recommendation of the Mayor and she stated that it was. Councilman Street asked for clarification on the 2%. Clerk Ramirez stated that each employee is in a pay scale and it is a 10 year scale and once they reach 10 years there are no more steps. In last years budget they council decided not to add additional steps to the scale but did allow a 2% increase for those who were topped out. She stated that during the budget meeting for the FY 06-07 budget she had told them that she had figured in the budget the merits for anyone that had a step and also 2% for all those who were topped out.

Motion by Martinez, second by Shapiro to approve the increases. Poll vote: Alexander, yea; Johnson, nay; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed.

30. Discussion and possible action on dropping back to one meeting a month but holding the second meeting date in order to handle Public Hearings from the Planning Commission and Economic Development meetings as needed.
Martinez

Councilman Martinez deferred this item to Councilman Shapiro. Councilman Shapiro stated due the meeting and the time he would like the item stricken from the agenda.

31. Discussion and possible action on a claim submitted by Shane Irwin for reimbursement of bail and impound fees. *Ramirez* ****

The council asked if Mr. Irwin was present and Clerk Ramirez stated that she and Attorney Jernigan had spoken to Mr. Irwin and told him it would be on the agenda and also told him that it was not the city that was negligent it was DPS so the recommendation would be to deny the claim.

Motion by Martinez, second by Gossman to deny the claim. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Item 32 was heard before item 10.

32. Discussion and possible action concerning Windtree litigation including, but not limited to, the appropriations of funds if necessary to affect settlement, including discussion and possible action on entering into executive session as allowed under 25 O.S. Supp. 307 (B) (4), confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceedings in the public interest. *Jernigan*

Attorney Jernigan recommended that the council enter into executive session with Mr. Kelly Work to stay.

Motion by Johnson, second by Martinez to enter into executive session. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

The council entered into executive session at 7:57 p.m.

The council returned to open session at 8:31 p.m. With no action taken.

32. Any Old or New Business (“New Business” is defined by the Open Meeting Act as any matter not known about or which could not have been reasonably foreseen prior to the time of posting of the agenda of a (“surprise nature”)).

Councilman Shapiro asked for the waiving of the reading of this item and there were no protest.

Moot.

33. Adjournment.

The meeting was adjourned at 10:55 p.m. by acclamation.

Respectfully submitted,

Pamela McDowell-Ramirez
City Clerk

MINUTES

**CITY OF WARR ACRES
PUBLIC WORKS AUTHORITY MEETING
WEDNESDAY
JULY 5, 2006
7:00 p.m.**

(Following completion of regularly scheduled City Council meeting)

1. The meeting was called to order at 10:56 p.m. Declaration of a quorum present was given.

ROLL CALL

PRESENT

ABSENT

Chair Marietta Tardibono
Vice-Chair Jeff Martinez
Trustee Jimmy Alexander
Trustee Walter Johnson
Trustee Mike Gossman
Trustee Rodney Nelson
Trustee Stan Street
Trustee Nancy Olson
Trustee Stewart Shapiro

2. Approve the minutes of the Warr Acres Public Works Authority Meeting of June 6, 2006. ****

Motion by Johnson, second by Martinez to approve the minutes. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

3. Approve payment of claim in the amount of \$60,561.76 to the Bethany-Warr Acres Public Works Authority for the Warr Acres portion of the Joint Trust and Bond Retirement for the month of June, 2006. ****

Motion by Alexander, second by Martinez to approve the payment of the claim. Poll vote: Alexander, yea; Johnson, yea; Nelson, yea; Gossman, yea; Martinez, yea; Street, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

4. Adjournment.

Motion by Martinez, second by Alexander to adjourn.

The meeting was adjourned at 10:57 p.m. by acclamation.

Respectfully submitted,

Pamela McDowell-Ramirez
City Clerk